



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/755,874	01/05/2001	Jun Liu	MSI-710US	4083
22801	7590	10/04/2005	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			KENDALL, CHUCK O	
			ART UNIT	PAPER NUMBER
			2192	

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/755,874

Applicant(s)

LIU ET AL.

Examiner

Chuck O. Kendall

Art Unit

2192

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4 - 10, 12 - 18, 20 - 23, & 25 - 31 is/are pending in the application.
- 4a) Of the above claim(s) 3, 11, 19, & 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4 - 10, 12 - 18, 20 - 23, & 25 - 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/20/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Detailed Action

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/27/04 has been entered.

2. Claims 1 – 31 were previously presented. Claims 3, 11, 19, & 24 have been cancelled and claims 1, 2, 4 – 10, 12 – 18, 20 – 23, & 25 – 31 are pending.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. Claims 1, 2, 4 – 10, 12 – 18, 20 – 23, & 25 – 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Zimniewicz et al. USPN 6,698,018.

Regarding claim 1, Zimniewicz anticipates a method for providing software to a device, the method comprising:

- identifying essential software within a device, the essential software including software necessary to operate the device and provide external communications (7:50 – 55);

- identifying remaining portions of software within the device as nonessential software (15:51 – 63, see post install);

- downloading new essential software from an external source to the device and storing the new essential software in memory by overwriting at least a portion of the non-essential software (8:50 – 55, overwrite the older version that overwrote it) and upon successfully operating the device and providing external communications using the new essential software, selectively downloading new non-essential software and storing the new non-essential software in memory by overwriting at least a portion of either the essential software or the non-essential software (8:50 – 55, see older version and “overwriting Component 2.5”).

Regarding claim 2, the method as recited in Claim 1, further comprising:

- after downloading the new essential software, attempting to operate the a device and provide external communications using the new essential software (10:35 – 40, see satisfy baseline requirements and display start up screens, and 50 – 55, also see cancel to exit setup, note: this is done after installation of baseline components (essential software)).

Regarding claim 4, the method as recited in Claim 1, wherein the device is a managed device (5:15 – 28, see PC or peer device).

Regarding claim 5, the method as recited in Claim 1, wherein the external to source includes a server device (5: 20 – 23, see server).

Regarding claim 6, the method as recited in Claim 1, wherein the external source includes a network (5:20 – 25).

Regarding claim 7, the method as recited in Claim 6, wherein the network is includes the Internet (5:27 – 29).

Regarding claim 8, the method as recited in Claim 1, wherein the essential software includes software selected from a group comprising an operating system, a file system, at least one driver, a communication program, an Internet browser, and an upgrade application (10:21 – 25, see OS and MDAC).

Regarding claim 9, which recites the computer-readable version of claim 1, see rationale above a previously discussed.

Regarding claim 10, which recites the computer-readable version of claim 2, see rationale above a previously discussed.

Regarding claim 12, which recites the computer-readable version of claim 4, see rationale above a previously discussed.

Regarding claim 13, which recites the computer-readable version of claim 5, see rationale above a previously discussed.

Regarding claim 14, which recites the computer-readable version of claim 6, see rationale above a previously discussed.

Regarding claim 15, which recites the computer-readable version of claim 7, see rationale above a previously discussed.

Regarding claim 16, which recites the computer-readable version of claim 8, see rationale above a previously discussed.

Regarding claim 17, which recites the apparatus version of claim 1, see rationale above a previously discussed.

Regarding claim 18, which recites the apparatus version of claim 2, see rationale above a previously discussed.

Regarding claim 20, which recites the apparatus version of claim 4, see rationale above a previously discussed.

Regarding claim 21, which recites the apparatus version of claim 8, see rationale above a previously discussed.

Regarding claim 22, which recites the system version of claim 1, see rationale above a previously discussed.

Regarding claim 23, which recites the system version of claim 2, see rationale above a previously discussed.

Regarding claim 25, which recites the system version of claim 4, see rationale above a previously discussed.

Regarding claim 26, which recites the system version of claim 7, see rationale above a previously discussed.

Regarding claim 27, which recites the system version of claim 8, see rationale above a previously discussed.

Regarding claims 28 – 31, a method, a computer readable media, a system, and an apparatus comprising: upon unsuccessfully operating the device or unsuccessfully providing external communications, reverting back to the essential software(10:50 – 55, and lines 63 – 65, shows in step 154, where user can revert back to baseline during a scenario baseline install also see further on line 63, where user can perform recovery).


Correspondence information

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuck Kendall whose telephone number is 571-272-3698. The examiner can normally be reached on 10:00 am - 6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam can be reached on 571-272-3695. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ck.


TUAN DAM
SUPERVISORY PATENT EXAMINER